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MassDEP Guidance to Boards of Health: New Statutory Provisions Regarding Transfer Stations (February 23, 2011)

Recent revisions to the state solid waste statute at GL c. 111, § 150A that took effect on July 1, 2010 have shifted the permitting of small transfer stations from the Massachusetts Department of Environmental Protection (“MassDEP” or “the Department”) to the Boards of Health (“BoHs”) in Massachusetts communities. The relevant language in GL c. 111, § 150A is as follows:

"A refuse transfer station that handles not greater than 50 tons of refuse per day and is designed, constructed and operated in accordance with performance standards issued by the department shall not be established, constructed, expanded, maintained, operated or devoted to any past closure as defined by regulation, unless detailed operating plans, specifications, a public health report, if any, and necessary environmental reports have been submitted to the board of health in the city or town in which the facility is located and such board of health has granted a permit for the facility and notice of such permit is recorded in the registry of deeds or, if the land affected thereby is registered land, in the registry district of the land court for the district wherein the land lies. Within 120 days after the department or board of health, as appropriate, has determined that the operating plans, specifications and reports are complete, the department or board of health shall make a decision granting or refusing to grant a permit. The permit, whether issued by the department or board of health, may limit or prohibit the disposal of particular types of solid waste at a facility in order to protect the public health, promote reuse, waste reduction and recycling, extend the useful life of the facility or reduce its environmental impact.

A decision by the department or a board of health, as appropriate, granting or refusing to grant a permit shall be in writing and shall contain findings with regard to criteria established by the department.... A person aggrieved by the decision of a local board of health in granting or refusing to grant a permit for a refuse transfer station may, within 30 days after the publication of notice of such decision, appeal under said section 14 of said chapter 30A. For the limited purposes of that appeal, the board of health shall be deemed to be a state agency under said chapter 30A and its proceedings and decision shall be deemed to be a final decision in an adjudicatory proceeding."

PLEASE NOTE: MassDEP has established a “Solid Waste Legislation Transition Task Force to help the agency develop tools that will help with the transition of permitting authority for ≤ 50 tpd transfer stations to the BoHs. Task Force members include BoH members and agents, solid waste districts and other organizations that provide staff support to BoHs, environmental advocates, and other interests. The Task Force discussions may result in revisions and/or expansion of this Q&A and other types of guidance that will assist the BoHs to efficiently and effectively take over responsibility for these permits. Additional information about this Task Force and its meeting schedule can be found on MassDEP’s web

site: <http://www.mass.gov/dep/public/committee/swtf.htm>. The Task Force will also address guidance for BoHs on determining site suitability as part of the site assignment process. (MassDEP's role in site assignment was changed with the statutory amendments that are the subject of this Q&A. A separate Q&A that provides guidance to BoHs about site suitability can be found at: <http://www.mass.gov/dep/recycle/laws/policies.htm#swmf>.)

ANSWERS TO FREQUENTLY ASKED QUESTIONS

1. Q: What type of solid waste facility is covered by the revised statutory language?

A: Transfer stations that handle less than or equal to 50 tons per day of refuse. MassDEP retains permitting authority over other solid waste facilities, including transfer stations that accept more than 50 tons per day of refuse.

2. Q: What does "handles not greater than 50 tons per day of refuse" mean?

A: The Department interprets the phrase "handles not greater than 50 tons per day of refuse" to refer to the transfer station's permitted capacity based on an average daily acceptance of 50 tons per day or less as measured over the course of a calendar year (counting only the days on which the transfer station is authorized to operate). For example, if a transfer station is authorized to operate five days per week (260 days per calendar year) and to accept a total of 12,740 tons of waste over the year, the Department would consider this facility to accept $12,740 \div 260 = 49$ tons of refuse per day.

3. Q: What obligations does the statute impose on Boards of Health with regard to ≤ 50 tpd transfer stations?

A: BoHs now have the authority to issue permits authorizing the establishment, construction, expansion, maintenance, or operation of, or the conduct of post closure activities at ≤ 50 tpd transfer stations:

- BoHs must grant or deny a permit application within 120 days of determining that the submitted operating plans, specifications and reports are complete.
- A permit may not be granted unless it is determined that the transfer station is designed and will be constructed and operated in accordance with performance standards issued by the Department.

The permit may limit or prohibit the disposal of particular types of solid waste at a transfer station in order to protect the public health, promote reuse, waste reduction and recycling, extend the useful life of the transfer station or reduce its environmental impact. As the permitting authority for these facilities, the BoHs are now responsible for ensuring compliance with the terms and conditions of the permits they issue. See answer to Question 6 for information about the timing of when BOHs will have to take over responsibility for most small transfer stations. The answer to Question 6 also addresses the timing of when BOHs will be obliged to issue such permits.

4. Q: What “performance standards” do ≤ 50 tpd transfer stations need to meet?

A: The revised statute requires ≤ 50 tpd transfer stations to be designed, constructed, and operated in accordance with performance standards issued by the Department. The Department’s existing regulations include performance standards for transfer stations. These are codified at 310 CMR 19.205: Design Requirements and 310 CMR 19.207: Handling Facility Operation and Maintenance Requirements (see Appendix A). Until such time as the Department formally revises these regulations, BoHs should use these regulations as the performance standards for transfer stations. In general, BoHs should now interpret each reference in these regulations to the term “Department” to refer instead to “Board of Health.” However, in 310 CMR 19.207(24): Open Burning, BoHs should NOT interpret the reference to the Department to refer instead to “Board of Health” because the changes in the statute did not affect the Department’s existing authority to regulate open burning.

5. Q: Who decides which environmental reports are “necessary” to be submitted to a BoH in support of an application for a permit for a ≤ 50 tpd transfer station?

A: Each BoH will decide what environmental reports are necessary for its review of an application for a permit for a ≤ 50 tpd transfer station. In making this decision, BoHs should be guided by the conditions of the site of the transfer station in question, any past use of the site, proximity of the transfer station to sensitive receptors (residents, water supplies, wetlands, etc.), and the above-referenced transfer station performance standards promulgated at 310 CMR 19.205 and 19.207. In addition, BoHs may want to consult the Department’s permit application submittal requirements for solid waste management facilities (including transfer stations) at 310 CMR 19.030(3), which lists relevant technical and other information that may be needed for purposes of making permit decisions.

6. Q: What will the Department do with pending permit applications from ≤ 50 tpd transfer stations?

A: The Department interprets the new statutory language to have transferred permitting authority over these facilities to BoHs as of July 1, 2010, the date on which the statutory changes took effect. However, another statute, the Permit Extension Act, which came into effect on August 5, 2010, revived and extended the term of any permits issued by the Department to such transfer stations that were in effect between August 15, 2008 and August 15, 2010. Therefore, all DEP permits for ≤ 50 tpd transfer stations that were in effect during this period have been extended by two years from the end of their term, which would be until July 1, 2012 (which is two years after the statutory revisions took effect). By July 1, 2012, these facilities will have to get a permit from the local BOH if they will operate after that date. DEP continues to have permitting and enforcement authority with respect to these ≤ 50 tpd transfer station until their extended permit terms end. MassDEP is handling pending permit applications for small transfer stations that did not hold a MassDEP permit between August 15, 2008 and August 15, 2010 on a case-by-case basis in consultation with the appropriate BoH.

7. Q: A ≤ 50 tpd transfer station wants to increase its tonnage to handle >50 tpd. To whom does it submit a permit application?

A: The Department interprets the revised statutory language to maintain the agency's permitting authority over transfer stations that handle >50 tpd and other solid waste facilities. Therefore, the transfer station should submit its application for a permit to increase its tonnage to >50 tpd to the Department.

8. Q: If a ≤ 50 tpd transfer station has already been issued a permit by the Department, must it apply to the BoH for a new permit?

A: If a ≤ 50 tpd transfer station held a MassDEP between August 15, 2008 and August 15, 2010, it will need to obtain a permit from the appropriate Board of Health by July 1, 2012 to continue operating, because the Permit Extension Act extended the MassDEP permits until July 1, 2012. If a ≤ 50 tpd transfer station's MassDEP permit lapsed before August 15, 2008 and it did not obtain a new permit before August 15, 2010, it needs to have a permit from the appropriate Board of Health now, to continue to operate lawfully (these transfer stations were not covered by the Permit Extension Act). After July 1, 2012, all ≤ 50 tpd transfer stations will require permits from the Board of Health for the municipality in which the transfer station is located. Appendix B of this document contains a list of existing ≤ 50 tpd transfer stations. Please note that BoHs remain responsible for permitting new small transfer stations.

9. Q: Can the BoH "re-adopt" or "grandfather in" permits issued by the Department to ≤ 50 tpd transfer stations?

A: Possibly. The scope of permit granting authority of each BoH can vary widely by municipality, depending upon the language of several potential sources of legal authority, including local charters, special legislative enactments, local bylaws, ordinances, and regulations. If a BoH wishes to "adopt by reference" a permit issued by the Department, it should review the language of all of the potential sources of legal authority listed above, to determine whether this would be allowed. In the event that legal authority is unclear, the BoH might consider consulting other experts, including town counsel.

10. Q: Who is responsible for enforcing the terms and conditions of a permit issued by a BoH to a ≤ 50 tpd transfer station?

A: The BoH that issued the permit is responsible for enforcing the terms and conditions of the permit. BoHs should review the language of all of the potential sources of legal authority and expertise listed in the response to Question 9 to determine the scope of their authority to take enforcement actions and to levy fines or other penalties for noncompliance.

11. Q: Are ≤ 50 tpd transfer stations still subject to Department regulations that are not related to permitting?

A: Yes. These facilities remain subject to the Department's regulations in other areas, such as prohibitions on creating nuisances (e.g., dust and noise) under the Air regulations. They also remain subject to the portions of the Department's solid waste regulations that do not pertain to permitting, such as the requirements for managing asbestos-containing material, and the

requirements of 310 CMR 19.017(3): Waste Bans, which prohibit any person from disposing, transferring for disposal, or contracting for disposal of specific materials upon which the Department has placed waste disposal restrictions. The Department may take enforcement action against small transfer stations for failing to comply with these and other applicable requirements.

In addition, these facilities may be subject to other local, state, and/or federal permit requirements, e.g., wetlands orders of conditions issued by local Conservation Commissions and state or federal requirements for storm water management plans and certifications.

12. Q: Are ≤ 50 tpd transfer stations still required to submit waste ban plans to the Department?

A: Yes if the transfer station's MassDEP permit was extended by the Permit Extension Act and no if the transfer station did not hold a MassDEP permit between August 15, 2008-August 15, 2010. Small transfer station permits that were extended by the Permit Extension Act (see Question 6) will need to submit revised Waste Ban Plans to respond to the ban on clean gypsum waste that will become effective on July 1, 2011. Guidance for facilities about addressing this new Waste Ban will be available soon on MassDEP's website. For small transfer stations for which MassDEP's Authorization to Operate expired before August 15, 2008 and which did not obtain a new permit by August 15, 2010, BOHs can require submittal of a waste ban plan as part of the application for a BOH issued permit. After July 1, 2012, BOHs will have responsibility for approval of all small transfer stations waste ban plans. The issue of waste ban compliance at small transfer stations will be discussed by the Solid Waste Legislation Transition Task Force.

13. Q: May an aggrieved party appeal a BoH approval or denial of a permit application, or failure to act on a permit application within 120 days of determining that the application submission is complete?

A: Yes. The statute allows aggrieved parties to appeal the BoH's approval, denial or inaction on a permit application to Superior Court.

14. Q: Can a BoH adopt any changes to its permitting or enforcement procedures, assess and collect permit fees, and/or increase the maximum fines and penalties that can be levied in enforcement actions through the promulgation of regulations, or must a town bylaw/ordinance be enacted?

A: The BoH's authority can vary widely from municipality to municipality. BoHs should review the language of all of the potential sources of legal authority and legal expertise listed in the response to Question 9 above to determine how to implement the new responsibilities contained in the statute.

15. Q: If a small transfer station is owned and/or operated by a BoH, can the BoH issue itself a permit?

A: The statute does not prohibit a Board of Health from issuing itself a permit to construct and/or operate a small transfer station. To avoid an appearance of a conflict of interest, BoHs in this situation may want to consider transferring the ownership and/or operating authority to another town entity.

16. Q: In some cases, small transfer stations have been built at the sites of closed landfills, under the terms of landfill post-closure use permits issued by MassDEP to the landfill owner/operator. In these permits, the Department has historically included conditions that apply to the small transfer stations (e.g., requirements to monitor leachate), so that municipalities only needed to consult one document to track both regulated entities (the landfill and the small transfer station). Can these small transfer stations continue to operate under the terms of the post-closure landfill use permits? Will these small transfer stations require new permits from BoHs?

A: Small transfer stations in these situations will need to obtain new permits to operate from their BoH, under the terms of the revised statute (See Questions 8 and 9). MassDEP may also revise the post-closure use permits issued to landfills in these situations, to reflect the changes in permitting authority established by the statutory revision, and to ensure that any monitoring and other “long term maintenance” requirements for the landfill are clearly established in a permit that MassDEP can enforce.

APPENDIX A

HANDLING FACILITY DESIGN REQUIREMENTS

19.205: Handling Facility Design Requirements

(1) Storm Water Controls.

(a) Performance Standard. Storm water controls shall prevent erosion, prevent the discharge of pollutants, protect the physical integrity of the handling facility, and be managed according to applicable standards established by the Department including, but not limited to, the wetlands protection regulations at 310 CMR 10.05(6)(b) and the Department's Storm Waster Policy. For purposes of meeting the storm water standards established by the Department, recharge shall be permitted at the handling facility only where the recharge will not adversely impact the quality of groundwater leaving the site. Peak rate attenuation shall be in accordance with that described in 310 CMR 19.205(1)(b): *Design Standards*, and source controls and pollution prevention measures (including design of the handling facility) shall be implemented to prevent discharge of pollutants. This standard applies to the construction and operational phases of the handling facility.

b) Design Standards. Storm water controls shall be designed to:

1. prevent run-on or flow onto the waste or material handling or storage areas during the peak discharge from a 24 hour, 100-year storm;
2. control the peak rate of run-off from the handling facility and paved areas of the site resulting from a 24 hour, 25-year storm.
3. control the peak rate of run-off from the handling facility resulting from a 24 hour, 100-year storm, to the extent practicable, if an evaluation of the peak rate of run-off resulting from a 24-hour, 100-year storm indicates there will be flooding up or downstream of the site using the most recent precipitation atlas approved for use by the United States National Weather Service, or their predecessor the U.S. Weather Bureau, shall be used to determine the rainfall depth associated with the 100-year storm (currently Technical Paper-40 published May, 1961).

(2) Equipment.

(a) The operator shall provide equipment in adequate numbers and of appropriate type and size for the proper operation of the handling facility in accordance with good engineering practice and in compliance with 310 CMR 19.000. All compactor or other processing units shall be in duplicate with each unit capable of handling the expected design tons per day; except that only one compactor or processing unit may be satisfactory

1. where the handling facility will handle under 150 tons per day, or
2. where adequate facilities to continue operation and/or an alternate method to handle all incoming refuse in an approved and sanitary manner in the event of a failure or breakdown is provided.

(b) The operator shall make provisions for the routine maintenance of equipment to assure satisfactory performance capability for the various operations of the handling facility.

(c) The operator shall provide at the site suitable shelter or protection for all equipment and necessary service supplies used in connection with the handling facility.

(d) The operator shall make arrangements for providing standby equipment in the event of breakdown of regular equipment. Such standby equipment shall be available for use and shall be provided within 24 hours of breakdown; otherwise the handling facility shall be closed for receipt of wastes until equipment becomes available.

(3) Weighing Facilities. The operator shall make provision on a continuous basis for the weighing or measuring of refuse delivered to the handling facility. Scales or other measuring devices may be required by the Department as follows:

(a) The operator of existing or new handling facilities receiving 100 tons or more per day shall weigh all incoming solid waste.

(b) Operators of handling facilities that receive less than 100 tons per day shall, on a daily basis, estimate the total weight and volume of waste delivered based upon the capacity of the vehicles which delivered solid waste to the facility.

19.207: Handling Facility Operation and Maintenance Requirements

(1) General. Operators shall incorporate procedures and practices, in accordance with approved plans and permit conditions, which will prevent pollution of ground water, surface water and air quality and prevent dust, odors, noise and other nuisance conditions from developing.

(2) Supervision of Operation.

(a) The operator of the handling facility shall be under the overall supervision and direction of an engineer or other person qualified and experienced in matters of solid waste handling and disposal.

(b) The operator of the handling facility shall be knowledgeable of the requirements of 310 CMR 16.00 and 310 CMR 19.000, and of the general operating procedures and plans as prescribed by the design engineer.

(c) The operator shall be required to demonstrate familiarity and capability to operate equipment at the handling facility.

(3) Access to Facilities.

(a) The operator shall provide and maintain in good repair access roads at the facility. Such access roads shall be paved to minimize dust and designed and constructed so that traffic will flow smoothly and will not be interrupted by inclement weather.

(b) The operator shall limit access to the facility to such periods of time as an attendant is on duty and to those persons authorized to use the facility for the disposal of refuse.

(4) Security.

(a) The operator shall provide sufficient fences or other barriers to prevent access to the facility except at designated points of entry or exit.

(b) A gate shall be provided at all access points and shall be locked at all times when the operator or his agent is not on site or during hours when the facility is not operating.

(5) Posting of the Handling Facility. The operator of a handling facility shall post signs at all access points to the facility which, at minimum, include the following information:

(a) the name(s) of the owner and operator of the facility;

(b) a 24 hour emergency telephone number for the facility;

(c) the hours of operation;

(d) a list of solid wastes banned or restricted pursuant to 310 CMR 19.017;

(e) other limitations and conditions of access to the facility; and

(f) where established by the municipality, penalties for unauthorized use.

(6) Unloading Refuse. The operator shall provide for continuous supervised unloading of refuse from incoming vehicles and shall post appropriate signs or other means to indicate clearly where incoming vehicles are to unload the refuse by direction of the attendant or equipment operator on duty.

(7) Special Wastes. No solid waste that has been classified as a special waste pursuant to 310 CMR 19.061(2): *Special Waste*, shall be received or handled at any handling facility unless the provisions of 310 CMR 19.061 are satisfied and the special waste is handled in accordance with any conditions specified by the Department in granting approval to handle the special waste and in accordance with the handling provisions of 310 CMR 19.061.

(8) Banned or Restricted Solid Wastes. Solid wastes which have been banned or restricted from Transfer or disposal pursuant to 310 CMR 19.017: *Waste Bans*, shall be managed at a handling facility in accordance with the approved facility plan prepared and approved in accordance with 310 CMR 19.017(5) unless an exception has been granted under 310 CMR 19.017(6).

(9) Hazardous Waste.

(a) No operator shall handle any material subject to the Hazardous Waste Regulations, 310 CMR 30.000, at a solid waste handling facility permitted pursuant to M.G.L. c. 111, § 150A, except that waste oil and household hazardous waste may be collected at a facility pursuant to 310 CMR 19.207(10).

(b) The operator shall implement a program, approved by the Department, for detection and exclusion of hazardous wastes.

(c) The operator shall, within 24 hours, notify the Department and the board of health of the discovery of any material subject to 310 CMR 30.000: *Hazardous Waste*.

(10) Household Hazardous Waste and Waste Oil Collections at Handling Facilities. If household Hazardous waste and waste oil are collected at handling facilities, the household hazardous waste and/or waste oil shall be collected with prior notice to DEP and in compliance with either:

(a) 310 CMR 30.392: *Events for the Accumulation of Household Hazardous Waste and/or Hazardous Waste Generated by Very Small Quantity Generators*, or

(b) 310 CMR 30.393: *Centers for the Accumulation of Hazardous Waste Generated by Households and/or Very Small Quantity Generators*.

(11) Bulky Waste.

(a) An operator may accept bulky wastes where:

1. the handling of such wastes is consistent with the facility's site assignment and/or permit; and
2. the handling of such wastes can be carried out in a manner which is manageable and compatible with the facility's operation and maintenance plan and environmental control systems.

(b) The Department may disallow or place conditions on the handling of bulky waste at a handling facility in order to protect the engineering or operational integrity of the facility.

(c) The board of health may, by regulation, specify the maximum size of large, heavy, or bulky items to be managed at the handling facility and may prohibit altogether the handling of certain items.

(d) If brush is accepted at the handling facility, provisions should be made for the brush to be received in bundles no larger in size than can be handled in an acceptable and sanitary manner by the specific equipment. Brush should not be allowed to accumulate beyond 48 hours after deposition at the handling facility.

(12) Liquid Wastes.

(a) No liquid wastes shall be managed at a handling facility. With the exception of septage, contained liquid wastes generated by and produced in the normal operation of a household

shall not be considered to be liquid wastes unless expressly excluded through 310 CMR 19.017: *Waste Bans*.

(b) For the purpose of 310 CMR 19.130 liquid wastes means any material that drains freely or contains free draining liquids, as determined by using the Paint Filter Liquids Test, Method 9095 as described in USEPA Publication SW-846.

(13) Bird Hazards. The operator of facilities located in proximity to airports shall operate and maintain the facility in such manner as to minimize, to the extent practicable, the potential for the facility to pose a bird hazard to aircraft.

(14) Dust Control. The operator shall undertake suitable measures to control dust wherever and whenever necessary at the site, the access road, and any other areas related to or under control of the waste handling facility operator to prevent nuisance conditions. Water shall not be used for dust control in amounts that produce excessive infiltration, ponding, runoff or erosion.

(15) Vector Control.

(a) The operator shall cause routine waste handling facility operations to be carried out promptly in a systematic manner and shall take preventative measures to maintain conditions unfavorable for the attraction or production of insects, birds, rodents and other vectors.

(b) The Department may require a routine program for the control and elimination of insects and rodents and other vectors at the handling facility site. The operator shall cause supplemental control measures, including but not limited to the use of effective insecticides and rodenticides, to be implemented when necessary.

(c) The application of pesticides shall be made only by a pesticide operator licensed by the Massachusetts Pesticide Board.

(16) Control of Wind-blown Litter.

(a) The operator shall take measures to prevent the scattering of refuse and wind-blown litter, including incorporating litter fencing, natural barriers or other devices to prevent the scattering of solid waste beyond the facility.

(b) The operator shall provide for routine maintenance and general cleanliness of the entire handling facility area. Such provisions are to be detailed on the engineering plans or written operating procedures.

(17) Staffing.

(a) The operator shall provide an adequate number of trained staff to ensure that the facility is operated and maintained as designed and in accordance with good solid waste management practices.

(b) During hours of operation the operator shall be continuously present at the handling facility.

(18) Employee Facilities.

(a) The operator shall provide proper shelter and facilities for employees working at the facility. The shelter and facilities shall contain:

1. sufficient light and heat;
2. a safe drinking water supply;
3. sanitary hand washing and toilet facilities;
4. an operational telephone or two-way radio system; and
5. other equipment or appurtenances necessary for full compliance with federal and state worker health and safety requirements.

(19) Accident Prevention and Safety.

(a) All employees shall be instructed in the principles of first-aid and safety and in the specific operational procedure necessary to prevent accidents.

(b) The operator shall provide and maintain adequate first-aid supplies at the site at all times.

- (c) The operator shall provide for two-way radios or telephones and ensure that the numbers for emergency medical care and ambulances are posted at the site.
- (20) Fire Protection. The operator shall take suitable measures for the prevention and control of fires at the facility by complying with at least the following:
- (a) Make available at the facility an adequate supply of water under pressure with sufficient fire hose, unless a fully-manned fire station is located within two miles;
 - (b) A separate area shall be provided, located away from combustible materials, refuse and buildings, for quick dumping and quenching or snuffing of hot loads;
 - (c) Arrange for a nearby fire department to provide emergency service whenever called; and
 - (d) Mount detachable fire extinguishers, maintained in working order, on all equipment and in all buildings.
 - (e) The operator shall ensure that no materials are stored, held, maintained or placed at a handling facility in such a manner as to pose a fire hazard.
 - (f) The operator shall be responsible for seeking fire-fighting assistance, initiating and providing assistance and/or resources for fire-fighting actions until all smoldering, smoking and burning cease.
- (21) Recycling Operations.
- (a) The operator may make provisions for the recycling of materials provided that a definite plan of procedure is implemented and followed to enable said operation to be carried out in an organized, sanitary, orderly and dependable manner with minimal interference to the routine handling facility operations.
 - (b) Any container, or specially designed enclosed area, used for the storage of recyclable materials (such as glass, cans, paper, *etc.*) shall be clearly identified and maintained in a clean and sanitary condition and the surrounding areas shall be kept in a similar condition.
 - (c) All accumulated recyclable materials shall be removed from the facility at least every 60 days and/or at such other times as may be specified by the Department.
 - (d) Recyclable materials of a nature or in quantities that cause odor or pose a threat to the public health or are detrimental to the environment or the surrounding area shall not be accumulated.
- (22) Records for Operational and Plan Execution.
- (a) The operator shall maintain a daily log to record operational information, including but not limited to the type and quantity of solid waste received and the status of all environmental control or monitoring systems.
 - (b) The operator of existing or new handling facilities receiving 100 tons or more per day shall weigh all incoming solid waste.
 - (c) Operators of handling facilities that receive less than 100 tons per day shall, on a daily basis, estimate the total weight and volume of waste delivered based upon the capacity of the vehicles which delivered solid waste to the facility.
 - (d) The operator shall submit to the Department, no later than February 15th of each calendar year, an annual report summarizing the facility's operations for the previous calendar year or portion of a calendar year that waste is handled at the facility. Where the Department provides a form for annual reporting, the report shall be made on, and shall contain, all information as requested by that form. Otherwise, the report shall describe and summarize:
 - 1. the amount of solid waste handled during that year with the quantity reported in tons;
 - 2. all environmental monitoring and sampling data trends from ground water, surface water and gas monitoring systems from the monitoring required by the facility permit; and

3. a demonstration of how the handling facility's operations during the year complied with the provisions of the recycling and composting plan contained as part of the facility's solid waste management permit.

(23) Screening and/or Fencing. The Department may require that the handling facility be suitably screened by fencing, or other approved methods, to shield the area from adjoining properties.

(24) Open Burning. No open burning of any refuse, including brush, wood or diseased trees shall be permitted at the handling facility site at any time of the year except as may be expressly permitted by the Department pursuant to 310 CMR 7.07: *U Open Burning*.

(25) Inspections.

(a) The facility shall be inspected by a Massachusetts registered professional engineer, or other qualified professional approved by the Department, experienced in solid waste management, and retained by the owner/operator, on a frequency as approved by the Department in the Operation and Maintenance Plan.

(b) An inspection shall:

1. be reported in writing and shall describe in detail the status and condition of all operating and monitoring equipment, appurtenances and devices, any deviation from compliance with operation and maintenance requirements set forth at 310 CMR 19.130, the site assignment, permit, or the authorization to operate, any actions taken to correct such deviations, as required by the Department or recommended by the inspecting engineer, and schedules to correct identified problems.

2. be signed and dated by the inspecting engineer, or other professional approved by the Department, certifying that to the best of his/her knowledge all information is accurate and complete.

(c) The operator shall submit one copy of the inspection report to the Department and one copy to the board of health no later than 14 days following the date of the inspection.

(d) The operator shall be responsible for the timely submission of inspection reports to the Department and the board of health.

(26) End-of-life Mercury-added Products. Mercury-added products that are hazardous waste pursuant to 310 CMR 30.000 shall be handled in accordance with 310 CMR 30.000. Mercury added products that are not hazardous waste shall be handled in accordance with 310 CMR 76.05(2).

APPENDIX B
SMALL TRANSFER STATIONS HOLDING MassDEP PERMITS TO OPERATE
(October 2010)

[See separate document: <http://www.mass.gov/dep/recycle/laws/policies.htm#swmf>]